

James Bendell
The Grupp Law Firm, PLLC
842 W. Kathleen Avenue
Coeur d'Alene, Idaho 83815
(208) 665-4600
Fax (208) 416-6540
james@grupplaw.com, ISB # 8326

Attorney for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

Northern Division

VERA GADMAN,

Plaintiff,
v.

JOSEPH MARTIN, MARSHALL
DITTRICH, PENELOPE JAMES AND
PHOENIX MOUNTAIN
COLLABORATIVE, LLC.

Defendants.

Case No.

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

Plaintiff complains and alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Vera Gadman is a single woman who is and was at all times material herein a resident of Bonner County, State of Idaho.
2. On information and belief, Defendant Joseph Martin is and was at all times material herein a resident and citizen of the State of Colorado.

3. On information and belief, Defendant Penelope James is and was at all times material herein a resident and citizen of the State of Montana.

4. On information and belief, Defendant Phoenix Mountain Collaborative, LLC is and was at all times material hereto a Montana Limited Liability Corporation.

5. On information and belief, Defendant Marshall Dittrich is and was at all times material herein a resident and citizen of the State of California.

6. Jurisdiction is proper pursuant to 28 U.S.C. §§ 1332(a)(1) and 1332(b) as the parties are residents of different states and the amount in controversy exceeds \$75,000.

7. Venue is proper with this Court because the actions complained of herein took place in Bonner County, Idaho and Venue is conferred by 29 U.S.C. § 1391.

8. Venue is proper in the Northern Division of the United States District Court for the District of Idaho pursuant to D.Id.L.Civ.R. 3.1 and 1391(a)(2).

FACTUAL ALLEGATIONS AND CLAIMS

9. On or about July 31, 2011, Plaintiff was driving her motor vehicle in the town of Clark Fork, Bonner County, Idaho.

10. Plaintiff observed Defendants Martin and Dittrich hitchhiking along Highway 200, and stopped her car to offer them a ride.

11. Defendants Martin and Dittrich then entered into the Plaintiff's motor vehicle.

12. Defendants stated that they wished to find a place to camp, and Plaintiff proceeded to assist them by driving to Sam Owen campground, which was full. Plaintiff then drove them to two other RV campgrounds on the Hope Peninsula, but they did not have funds to

pay for the campsite. Finally, Plaintiff drove them to the east end of David Thompson Road, where she showed them a map with alternative locations for them to stay.

13. Without cause or provocation, Defendants Martin and Dittrich assaulted and battered Plaintiff, committing the following acts against her:

- A. Choking Plaintiff, causing her to lose consciousness and then strangling her with a rope.
- B. Striking her about the head with a glass bottle and other objects, and with fists.
- C. Throwing rocks and striking her with rocks.
- D. Otherwise threatening, menacing, and committing other acts of violence and terror against Plaintiff.

14. The above acts occurred both inside and outside of the Plaintiff's motor vehicle.

15. At one point during the attack Defendant Dittrich exercised dominion and control over the motor vehicle by turning off the engine.

16. Prior to their attack upon Plaintiff, Defendants Martin and Dittrich were housed at the Explorations wilderness facility for troubled youth, located in Trout Creek, Montana.

17. Explorations is a facility and business conducted by Defendant Phoenix Mountain Collaborative, LLC.

18. The co-founder and director of Explorations is Defendant Penelope James.

19. Explorations holds itself out as a wilderness camp for troubled youth, including youth involved in criminal behavior and drug abuse.

20. On or about July 19 or 20, Defendants Martin and Dittrich informed Explorations

personnel that they planned to escape.

21. Defendant Penelope Jones was informed of the escape plan.

22. Despite having been informed of the escape plan, Defendants Penelope Jones and Phoenix Mountain Collaborative failed to supervise or prevent the escape of Defendants Martin and Dittrich. Said acts of negligence commenced in the State of Montana and continued in the State of Idaho.

23. Due to the carelessness and negligence of Defendants Penelope Jones and Phoenix Mountain Collaborative, LLC, Defendants Martin and Dittrich escaped and traveled to Sandpoint, Idaho, where they assaulted and battered the Plaintiff.

24. As a result of the negligent and/or intentional acts committed by Defendants, Plaintiff sustained injuries about her head, neck, wrist, face and back.

25. As a result of the negligent and/or intentional acts committed by Defendants, Plaintiff sustained other serious physical and emotional injuries.

26. As a result of the negligent and/or intentional acts committed by Defendants, Plaintiff has incurred medical and psychological expenses and will incur these expenses in the future.

27. As a result of the negligent and/or intentional acts committed by Defendants, Plaintiff has sustained a loss of earnings and will incur lost earnings in the future.

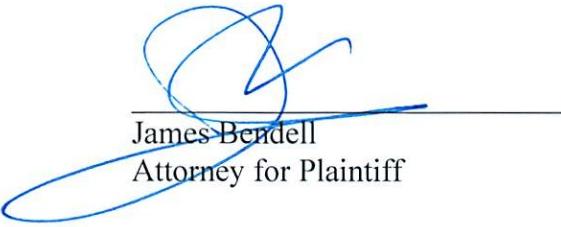
28. As a result of the negligent and/or intentional acts committed by Defendants, Plaintiff has suffered pain and suffering and loss of enjoyment of life, and will suffer such pain and suffering in the future.

29. Plaintiff has sustained damages of \$1,000,000.

WHEREFORE, Plaintiff prays for the following relief:

- A. Judgment against Defendants for past and future medical and psychological injuries.
- B. Judgment against Defendants for past and future loss of earnings.
- C. Judgment against Defendants for past and future pain and suffering.
- D. For judgment against Defendants Dittrich and Marshall for punitive damages due to the willful, wanton and deliberate acts referenced above.
- E. For general, special and compensatory damages in the amount of \$1,000,000.
- E. For such other relief as the court may deem equitable.

Dated this 25 day of JULY, 2013.

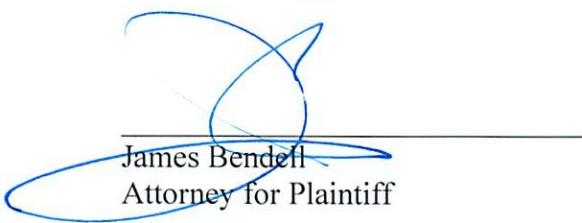

James Bendell

Attorney for Plaintiff

DEMAND FOR JURY

Vera Gadman demands a trial by jury on all issues and claims asserted herein.

DATED this 25 day of July, 2013.


James Bendell

Attorney for Plaintiff

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Vera Gadman

(b) County of Residence of First Listed Plaintiff Bonner
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

James Bendell, The Grupp Law Firm, PLLC, 842 W. Kathleen Ave., Coeur d'Alene, ID 83815

DEFENDANTS

Joseph Martin, Marshall Dittrich, Penelope James, Phoenix Mountain Collaborative, LLC

County of Residence of First Listed Defendant Colorado
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question
(U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input checked="" type="checkbox"/> 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	LABOR	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Product Liability	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 Other Civil Rights	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 410 Voting	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 420 Employment	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts
		<input type="checkbox"/> 430 Housing/ Accommodations	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters
		<input type="checkbox"/> 445 Amer. w/Disabilities - Employment		<input type="checkbox"/> 895 Freedom of Information Act
		<input type="checkbox"/> 446 Amer. w/Disabilities - Other		<input type="checkbox"/> 896 Arbitration
		<input type="checkbox"/> 448 Education		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
		<input type="checkbox"/> 510 Motions to Vacate Sentence		<input type="checkbox"/> 950 Constitutionality of State Statutes
		Habeas Corpus:		
		<input type="checkbox"/> 530 General		
		<input type="checkbox"/> 535 Death Penalty		
		<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
		IMMIGRATION		
		<input type="checkbox"/> 462 Naturalization Application		
		<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition)		
		<input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | |
|---|---|--|---|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) | <input type="checkbox"/> 6 Multidistrict Litigation |
|---|---|--|---|--|---|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC Sec. 1332(a)(1) and 1332(b)**VI. CAUSE OF ACTION**Brief description of cause:
Plaintiff assaulted and beaten by two escapees from Wilderness therapeutic facility.**VII. REQUESTED IN COMPLAINT:**

<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION	DEMAND \$	CHECK YES only if demanded in complaint:
UNDER F.R.C.P. 23	1,000,000.00	JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/25/2013

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE